

## HB 403 FACT SHEET

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Updated March 21, 2013

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HB 403, submitted on behalf of the Montana Association of Clerks of District Court, seeks to do the following:

### Section 1

- **Clarify under §7-4-2516 that county officials are not exempt from copy fees and/or fees for filing documents by facsimile or email.**

### Section 2.

- **Provide for a reduced fee for documents provided to requestors by electronic means rather than by hard copy.** Although §7-5-2133, MCA (copied below \*\*) already provides for a convenience fee for electronic county government services, §25-1-201(1)(d)(i), MCA dictates that the statutory fee for copies provided by the Clerk of Court is \$1.00 per page for the first ten (10) pages and \$.50/page for each additional page, per file, per request. HB 403 proposes \$.50/pages for all pages.

A survey of the Clerks of District Court statewide revealed that out of the 50 clerks who responded, 40 clerks (80%) currently charge the statutory fee for documents provided by email.

It is also worth noting that scanning activity by Clerks of Court statewide increased by 103,250 documents from 2010 to 2012 as demonstrated in the table below. The data below reflects responses from 50 of the 56 Clerks of District Court who responded to the request for data.

Year	Documents Imaged	Daily Average	% Inc Prior Year	% Inc from 2010
2010	539,277	2,174.50		
2011	577,756	2,301.81	7 %	7 %
2012	642,527	2,570.11	10 %	16 %

- **Provide for a reduced fee for documents submitted for filing to the Clerk of Court by facsimile or email.** Documents which are submitted for filing by facsimile or email must be printed by the Clerk of Court for inclusion in the court record. This shifts the duty of printing documents for filing from the filing party to the Clerk of Court (or taxpayer). Again, the only statutory fee available for Clerks of Court to charge for copies is that which is provided for under §25-1-

201(1)(d)(i), MCA, which is \$1.00/page for the first ten (10) pages and \$.50/page for each additional page, per file, per request.

Of the 50 clerks who responded to a survey requesting information about the volume of fax/email filings, 38 (76%) currently charge a fee for documents filed by facsimile or email. The chart below reflects the estimated volume of fax/email filings for the 49 clerks who responded. Fifty-eight percent (58%) estimated they receive 25 or more documents monthly by email or fax. Forty-two percent (42%) estimated they receive 50 or more per month.

Estimated Volume of Fax/Email Filings	# of Clerks	%
200 - 300	5	10 %
100 - 199	5	10 %
50 - 99	11	22 %
25 - 49	8	16 %
10 - 24	14	28 %
0 - 9	5	10 %
Would not estimate	2	4 %

- ***Clarify that copy fees apply to copy requests in criminal and civil proceedings.***

### **Section 3**

- ***Clarify that a waiver of filing fees for indigent litigants under §25-10-404 does not include fees for copies or fees for filing documents by facsimile or email.*** While it is appropriate for the Court to waive the filing fee and judgment fee for indigent litigants, the cost of printing documents filed by fax or email as well as the copy charges for providing copies of documents on file should remain the responsibility of the filing party.

### **Section 4**

- ***Clarify under §25-10-405 that, in addition to fees for photocopies, postage and handling, certifications, authentications and records searches, governmental entities defending an action are not exempt from the fee for filing documents by facsimile or email.***

**\*\* 7-5-2133. Convenience fee for electronic county government services.** (1) The county may charge a convenience fee and may allow county departments to collect the convenience fee on selected electronic government services in order to provide funding for the support and furtherance of electronic government services.

(2) As used in this section, "convenience fee" means a fee charged to recover the costs of providing electronic government services.